

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TOMITA TECHNOLOGIES USA, LLC, and TOMITA TECHNOLOGIES INTERNATIONAL, INC.,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF AMERICA INC.,

Defendants.

11 Civ. 04256 (JSR)  
ECF Case

**DEFENDANTS NINTENDO CO., LTD. AND NINTENDO OF AMERICA INC.'S  
NOTICE OF APPEAL**

Notice is hereby given that Defendants Nintendo Co., Ltd. and Nintendo of America Inc. (collectively "Nintendo") in the above-named case hereby appeal to the United States Court of Appeals for the Federal Circuit from this court's Amended Final Judgment entered December 30, 2013 (D.I. 173), granting judgment in favor of the plaintiffs, Tomita Technologies USA, LLC, and Tomita Technologies International, Inc. (collectively "Tomita"), against Nintendo. Nintendo also appeals from the Final Judgment entered December 16, 2013 (D.I. 172); the Memorandum Order entered December 11, 2013 (D.I. 171), ordering Nintendo to pay damages; the Order entered August 14, 2013 (D.I. 166), denying Nintendo's renewed motion for judgment as a matter of law or a new trial; the judgment entered March 14, 2013 (D.I. 127), awarding Tomita damages; the decision stated on the record on March 12, 2013 which granted Tomita's motion for judgment as a matter of law on written description and denied Nintendo's renewed motion for judgment as a matter of law; the decision stated on the record on March 5, 2013 which denied Nintendo's motion for judgment as a matter of law; the Order entered April 23, 2012 (D.I. 77)

and Memorandum entered June 26, 2012 (D.I. 82), denying Nintendo's motions for summary judgment; and the Court's claim construction Memorandum and Order entered February 22, 2012 (D.I. 64) and January 3, 2012 (D.I. 52). Nintendo also appeals from all adverse orders, decisions and opinions of the Court in this matter entered prior or subsequent to the entry of the Amended Final Judgment.

Dated: January 9, 2014  
New York, New York

Respectfully submitted,

KAYE SCHOLER LLP

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